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2   UNITED STATES DISTRICT COURT

3   FOR THE NORTHERN DISTRICT OF CALIFORNIA

4   OAKLAND DIVISION

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6 | ARNEL CATACUTAN, | Case No: C 11-3936 SBA |

    ARNEL CATACUTAN,   Case No: C 11-3936 SBA

            Plaintiff,   **ORDER TRANSFERRING VENUE**

7
            vs.

8
    DEUTSCHE BANK NATIONAL TRUST
9   COMPANY, as TRUSTEE FOR MORGAN
    STANLEY ABS CAPITAL I, Inc., TRUST
10 Inc., 2006-HE4, to whom the debt is owed, is
    organized and exists under the laws of the
11 State of New York, NORTHWEST
    TRUSTEE SERVICES, INC., existing under
12 the laws of the United States,

13   Defendants.

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15   Plaintiffs[1] filed the instant pro se mortgage fraud action in this Court on August 10,

16 2011, along with a request to proceed in forma pauperis under 28 U.S.C. § 1915. In their

17 Complaint, Plaintiffs allege that Defendants Deutsche Bank National Trust Company and

18 Northwest Trustee Services, Inc., have illegally attempted to foreclose on their home

19 located at 1789 Andrews Circle, Suisun City, California 94585. They allege that Court has

20 jurisdiction based on the diversity of the parties, 28 U.S.C. § 1332. See Compl. ¶ 1, Dkt. 1.

21   Venue in diversity cases is governed by 28 U.S.C. § 1391(a), which specifies that:

22   (a) A civil action wherein jurisdiction is founded only on
                    diversity of citizenship may, except as otherwise provided by
23   law, be brought only in (1) a judicial district where any
                    defendant resides, if all defendants reside in the same State,
24   (2) a judicial district in which a substantial part of the events or
                    omissions giving rise to the claim occurred, or a substantial part
25   of property that is the subject of the action is situated, or (3) a
                    judicial district in which any defendant is subject to personal

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            [1] Although the caption only references Arnel Catacutan, the Complaint is signed by
28 both Arnel Catacutan and Myra Catacutan.

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                jurisdiction at the time the action is commenced, if there is no
                district in which the action may otherwise be brought.

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"The district court of a district in which is filed a case laying venue in the wrong division or

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district shall dismiss, or if it be in the interest of justice, transfer such case to any district or

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division in which it could have been brought." 28 U.S.C. § 1406(a). Venue may be raised

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by a court sua sponte where, as here, the defendants have not yet filed a responsive

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pleading and the time for doing so has not run. Costlow v. Weeks, 790 F.2d 1486, 1488

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(9th Cir. 1986).

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       The Northern District of California is the wrong venue for this action. The property

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that forms the basis of this action is Plaintiffs' residence located in Suisun City, California.

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Compl. ¶¶ 5, 11-21. Suisun City is located in Solano County. As such, Plaintiff should

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have filed their action in the Eastern District of California, Sacramento Division. See E.D.

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Cal. L.R. 120(d). Accordingly,

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       IT IS HEREBY ORDERED THAT, in the interests of justice, the instant action is

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TRANSFERRED to the Eastern District of California, Sacramento Division. The Clerk

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shall close the file and terminate any pending matters.

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       IT IS SO ORDERED.

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Dated: October 26, 2011

19
                           SAUNDRA BROWN ARMSTRONG
                           United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

CATACUTAN et al,

        Plaintiff,

  v.

DEUTSCHE BANK NATIONAL TRUST
COMPANY et al,

        Defendant.

_____/

Case Number: CV11-03936 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 27, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Arnel Catacutan
1789 Andrews Drive
Suisun City, CA 94585

Myra Catacutan
1789 Andrews Drive
Suisun City, CA 94585

Dated: October 27, 2011

Richard W. Wieking, Clerk

By: LISA R CLARK, Deputy Clerk